

United States District Court, Northern District of Illinois

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| Name of Assigned Judge or Magistrate Judge | Milton I. Shadur | Sitting Judge if Other than Assigned Judge | |
| CASE NUMBER | 01 C 2919 | DATE | 9/26/2001 |
| CASE TITLE | Cement Masons Pension Fund vs. King & Larsen, Inc. | | |

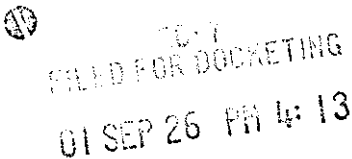
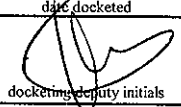
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

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|------|-------------------------------------|--|
| (1) | <input type="checkbox"/> | Filed motion of [use listing in "Motion" box above.] |
| (2) | <input type="checkbox"/> | Brief in support of motion due _____. |
| (3) | <input type="checkbox"/> | Answer brief to motion due _____. Reply to answer brief due _____. |
| (4) | <input type="checkbox"/> | Ruling/Hearing on _____ set for _____ at _____. |
| (5) | <input type="checkbox"/> | Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____. |
| (6) | <input type="checkbox"/> | Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____. |
| (7) | <input type="checkbox"/> | Trial[set for/re-set for] on _____ at _____. |
| (8) | <input type="checkbox"/> | [Bench/Jury trial] [Hearing] held/continued to _____ at _____. |
| (9) | <input type="checkbox"/> | This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> General Rule 21 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2). |
| (10) | <input checked="" type="checkbox"/> | [Other docket entry] Enter Memorandum Order. Defendant's answer is hereby stricken with leave granted to file the required Amended Answer in this Court's chambers on or before October 5, 2001. |
| (11) | <input checked="" type="checkbox"/> | [For further detail see order attached to the original minute order.] |

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| <input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge. | SN courtroom deputy's initials |  | number of notices | Document Number 17 |
| | | | SEP 27 2001 date docketed | |
| | | |  docketing deputy initials | |
| | | | 9/26/2001 date mailed notice | |
| | | | SN mailing deputy initials | |
| Date/time received in central Clerk's Office | | | | |

CEMENT MASONS PENSION FUND,)
LOCAL 502, et al.,)

V.)

KING & LARSEN, INC., etc.,)

DECLASSIFIED

MEMORANDUM ORDER

To begin with, defense counsel has the bizarre notion (unfortunately shared by more than a few lawyers) that if any of a plaintiff's allegations amounts to a legal conclusion, no answer is required to the assertedly defective allegation. That is dead wrong--see App. ¶2 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 279 (N.D. Ill. 2001). Because every paragraph of the Answer relies in whole or in part on that mistaken notion, every one must be and is trashed.

As long as defense counsel must return to the drawing board in any event, the Amended Answer must also conform to this

District Court's LR 10.1, which requires every responsive pleading to set out each allegation being responded to (a requirement most often, though not always, satisfied by an in haec verba repetition of those allegations), followed by each responding paragraph. That requirement has as its obvious purpose the reader's ability to see precisely what is and what is not being put in issue without having to flip back and forth between two separate pleadings.

Defense counsel are ordered to file the required Amended Answer in this Court's chambers (with a copy of course being transmitted to Funds' counsel) on or before October 5, 2001. No charge is to be made to defendants by their counsel for the added work and expense incurred in correcting counsel's own errors. Defense counsel are ordered to apprise their clients to that effect by letter, with a copy to be transmitted to this Court's chambers as an informational matter (not for filing).



Milton I. Shadur
Senior United States District Judge

Date: September 26, 2001